

Message Text

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C O N F I D E N T I A L QUITO 6308

EXDIS

C O R R E C T E D C O P Y (TEXT)

E.O. 11652: GDS

TAGS: ENRG, EC

SUBJECT: RECOMMENDED USG ACTION TO ATTEMPT TO AVOID DAMAGING
CONSEQUENCES OF PROSPECTIVE GOE SEIZURE OF GULF OIL
OIL PROPERTIES

REF: QUITO 6265

1. AS OF THIS WRITING, IT APPEARS THAT BY FAR THE MOST LIKELY
SCENARIO FOLLOWING THE ACTION REPORTED IN THE REFTEL IS:

(A) GULF REFUSES TO COMPLY WITH THE GOE'S DEMAND THAT
GULF PAY THE DEPOSITS THAT GULF HAS ILLEGALLY BEEN WITHHOLDING;

(B) THE GOE ACCORDINGLY FOLLOWS THROUGH WITH ITS STATED
INTENT TO TAKE OVER GULF'S PROPERTIES IN ECUADOR, WITHOUT
PAYING ANY COMPENSATION, JUSTIFYING THIS ACTION ON THE
GROUNDS THAT ECUADOREAN LAW PROVIDES FOR SUCH A TAKE-OVER
WITHOUT COMPENSATION IN THE EVENT THAT GULF FAILS TO MEET
ITS OBLIGATIONS TO PAY TAXES AND ROYALTIES;

(C) GULF CLAIMS IN RESPONSE THAT THE GOE STARTED
THIS SEQUENCE OF EVENTS BY BREAKING THE CONTRACT, THROUGH
ITS FAILURE TO LIVE UP TO SEVERAL OF ITS CONTRACTUAL
OBLIGATIONS, AND THAT THEREFORE THE GOE'S TAKE-OVER IS NOT
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LEGALLY JUSTIFIED;

(D) GULF REQUESTS USG SUPPORT TO EXTRACT COMPENSATION FROM THE GOE, AND OBTAINS STRONG SUPPORT FOR THIS WITHIN THE CONGRESS (AND POSSIBLY ALSO WITHIN THE EXECUTIVE BRANCH);

(E) ATTEMPTS--QUITE LIKELY SUCCESSFUL--ARE MADE WITHIN THE CONGRESS TO INVOKE APPLICABLE SANCTIONS AGAINST THE GOE, INCLUDING TERMINATION OF FMS ELIGIBILITY FOR ECUADOR; AND CURRENT EFFORTS BY SOME MEMBERS OF CONGRESS TO EXTEND GSP TO ECUADOR ARE ABORTED;

(F) THESE PROSPECTIVE CONGRESSIONAL ACTIONS PUT U.S.-ECUADOREAN RELATIONS INTO A VERY DEEP FREEZE, AND ECUADOR'S PROTESTS AGAINST THEM DRAW WIDE AND FIRM SUPPORT FROM OTHER OAS MEMBERS AND FROM OTHER THIRD-WORLDEERS (AS WELL AS FROM COMMUNIST COUNTRIES);

(G) THE USG ONCE AGAIN APPEARS, IN THE EYES OF MUCH OF THE WORLD, TO HAVE RIDDEN ROUGHSHOD OVER THE INTERESTS OF A SMALL COUNTRY THAT HAS MERELY BEEN SEEKING TO PROTECT ITS OWN VITAL INTERESTS AND THAT HAS DONE SO IN A WAY CONSISTENT WITH INTERNATIONAL NORMS.

2. IN THE FACE OF THIS VERY LIKELY SCENARIO, I FEEL THE USG SHOULD MAKE EVERY POSSIBLE EFFORT TO TRY TO ALTER THIS COURSE OF EVENTS. AS I CONSIDER THE RANGE OF POSSIBLE EFFORTS, APART FROM THE RECOMMENDATION I PUT FORTH IN THE REFTEL, IT APPEARS TO ME THAT THERE IS ONE OTHER THAT MIGHT AVOID THIS GREE TRAGEDY. I SEE NO PROSPECT FOR PERSUADING GULF TO HAND OVER TO THE GOE THE APPROXIMATE \$65 MILLION OF DEPOSITS DUE OR SOON TO COME DUE; BUT I SEE SOME CHANCE, HOWEVER SLIGHT, OF A FORMULA FOR PAYMENT THAT WOULD BE ACCEPTABLE TO GULF AND THE GOE. A PROPOSAL BY GULF OF THIS TYPE OF THE GOE, IF ACCEPTED, WOULD LAY THE GROUNDWORK TO COMMENCE NEGOTIATIONS WITH GULF FOR AN AMICABLE BUY-OUT OF GULF'S HOLDINGS AS GULF HAS REQUESTED.

3. I AM AWARE THAT UNDER THE PRESENT CIRCUMSTANCES, WITH GULF HAVING SOME \$30 MILLION OR SO ALREADY IN ITS COFFERS PLUS SOME \$35 MILLION HEADED FOR ITS COFFERS AS A RESULT OF
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SHIPMENTS FOR WHICH PAYMENT IS OUTSTANDING, PLUS THE ASSURANCE OF A LARGE TAX WRITE-OFF ON ITS CLAIMED LOSSES RESULTING FROM THE PROSPECTIVE CADUCITY, GULF DOES NOT STAND TO SUFFER ANY MOMENTOUS FINANCIAL LOSSES FROM THE PROSPECTIVE TAKE-OVER AND THEREFORE PRESUMABLY DOES NOT FEEL ANY STRONG COMPULSION TO TAKE ANY COURSE OF ACTION OTHER THAN A FLAT REFUSAL TO PAY ALL OR ANY PORTION OF ITS DELINQUENT DEPOSITS. NONETHELESS, I BELIEVE THAT A PROPERLY

PRESENTED REQUEST TO GULF TO MAKE THE PROPOSED PAYMENT SET FORTH BELOW MIGHT PROVE PERSUASIVE, AND I BELIEVE THAT SO LONG AS THERE IS THE SLIGHTEST CHANCE THAT IT MAY PROVE PERSUASIVE, WE IN THE USG MUST MAKE THE EFFORT.

4. SPECIFICALLY, I PROPOSE THAT TOP EXECUTIVES OF GULF BE CALLED IMMEDIATELY TO A MEETING WITH SENIOR OFFICIALS OF THE DEPARTMENTS OF STATE AND TREASURY. AT THIS MEETING, GULF SHOULD BE TOLD THAT, WHILE IT MAY COME OUT OF THE CURRENT SITUATION WITH VERY LITTLE FINANCIAL DAMAGE IF IT REFUSES TO PAY THE DELINQUENT DEPOSITS, SUCH ACTION BY GULF WOULD SERIOUSLY HARM NOT ONLY U.S. INTERESTS IN ECUADOR BUT ALSO U.S. RELATIONS WITH LATIN AMERICA IN GENERAL AND WITH MUCH OF THE THIRD WORLD. IT SHOULD BE POINTED OUT TO GULF THAT IF THEY PAY THE DEPOSITS IN FULL, TOTALLING SOME \$65 MILLION (I.E., ABOUT \$30 MILLION CURRENTLY OVERDUE PLUS ABOUT \$35 MILLION COMING DUE), IT APPEARS THEY WOULD RECEIVE AN AMOUNT GREATER THAN THAT THROUGH BUY-OUT NEGOTIATIONS, EVEN UNDER THE MOST UNFAVORABLE ACCOUNTING BY THE GOE OF A FAIR PRICE FOR GULF'S HOLDINGS. (MINISTER OF NATURAL RESOURCES VARGAS, NO FRIEND OF GULF, RECENTLY PROPOSED A NATIONALIZATION SCHEME WHEREBY GULF WOULD RECEIVE \$120 MILLION OVER TEN YEARS, PLUS INTEREST.) ASSUMING THAT GULF WOULD CONTEND IN RESPONSE THAT IT DOES NOT SHARE OUR OPTIMISM ON THIS COUNT, A PROPOSAL SHOULD THEN BE PUT FORTH TO GULF THAT IT RESPOND TO THE GOE'S 30-DAY NOTIFICATION OF INTENT TO TAKE OVER GULF'S HOLDINGS BY OFFERING TO THE GOE A NET PAYMENT, AS DETAILED BELOW, ON CONDITION THAT UPON SUCH PAYMENT NEGOTIATIONS WILL COMMENCE FOR THE GOE TO BUY OUT GULF'S HOLDINGS.

5. IT SEEMS TO ME THAT THE NET PAYMENT COULD FAIRLY BE CALCULATED AS THE DIFFERENCE BETWEEN GULF'S CURRENT DELINQUENCIES
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TOTALLING SOME \$30 MILLION AND THE GOE'S CURRENT ACKNOWLEDGED DEBTS TO GULF TOTALLING SOME \$15-20 MILLION, SO THAT THE NET PAYMENT WOULD BE ROUGHLY \$10 MILLION. WHILE THE VARIOUS WARRING FACTIONS OF THE GOE SEEM AT THE MOMENT TO HAVE CLOSED RANKS IN A DETERMINATION TO OBLIGE GULF TO OBEY THE LAW, MANY IN THE GOE ARE RELUCTANT TO HAVE TO "CADUCE" GULF BECAUSE THEY FEAR THE IMPACT ON THE COUNTRY'S IMAGE AMONG OTHER PROSPECTIVE FOREIGN INVESTORS. THUS, THERE IS A POSSIBILITY THAT THE GOE WOULD ACCEPT THE OFFER AS THE BASIS FOR BUY-OUT NEGOTIATIONS. IN OTHER WORDS, AS AGAINST THE PROSPECT OF GULF COMING OUT OF ECUADOR WITH \$65 MILLION PLUS A TAX WRITE-OFF, GULF WOULD BE ASKED TO RISK \$10 MILLION AGAINST A VERY GOOD PROSPECT THAT IT WOULD COME OUT OF ECUADOR WITH A FINANCIAL SETTLEMENT CONSIDERABLY GREATER THAN THE \$65 MILLION-PLUS-WRITEOFF--AND WITH A VERY CONSIDERABLY

LESS DAMAGING AFTERMATH TO GULF'S REPUTATION AND TO THE
USG'S INTERNATIONAL RELATIONS.

6. IN VIEW OF THE POSSIBILITY THAT GULF WILL DELIVER TO
THE GOE VERY SHORTLY GULF'S EXPECTED FLAT REFUSAL TO PAY
THE DELINQUENT DEPOSITS, MY PROPOSAL MUST OBVIOUSLY BE
ACTED UPON IMMEDIATELY IF IT IS ACTED UPON AT ALL.

7. IF MY PROPOSAL IS ACTED UPON, I RECOMMEND FURTHER THAT
SELECTED MEMBERS OF CONGRESS BE BRIEFED ON IT, WITH A VIEW
TO OBTAINING THEIR SUPPORT FOR THE ACTION GULF WILL BE ASKED
TO TAKE. GULF MAY BE MORE FAVORABLY INCLINED TO GO ALONG
WITH THIS REQUESTED ACTION IF IT IS GIVEN TO UNDERSTAND
THAT THERE IS CONGRESSIONAL SUPPORT FOR THIS EXECUTIVE
BRANCH REQUEST.

8. SHOULD GULF AGREE TO OFFER A NET PAYMENT, AS THE
BASIS FOR BUY-OUT NEGOTIATIONS, WE IN THE EMBASSY WOULD
SEEK TO THE BEST OF OUR ABILITIES AND AS DISCREETLY AS
POSSIBLE TO INDUCE THE GOE TO ACCEPT THE OFFER. WE NEED
HARDLY POINT OUT TO THE GOE THAT IT IS NOT IN ECUADOR'S
INTERESTS TO LOSE FMS ELIGIBILITY, TO LOSE ALL CHANCES FOR
BEING ACCORDED GSP, TO SUFFER OTHER SPECIFIC LOSSES OF
BENEFITS FROM THE USG AND FOREIGN INVESTMENT, AND TO SUFFER
A VERY SERIOUS DETERIORATION IN ITS RELATIONS WITH THE
UNITED STATES.

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